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**THE UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**(SAN FRANCISCO DIVISION)**

MATT BUTLER dba SAN RAFAEL YACHT  
HARBOR,  
  
Plaintiff,  
  
v.  
  
CLARENDON AMERICA INSURANCE  
COMPANY, and DOES 1 through 50, inclusive,  
  
Defendants.

**CASE NO.: C06-3619 MJJ**

**STIPULATION REQUESTING AND  
[PROPOSED] ORDER GRANTING  
CONTINUANCE OF HEARING ON  
PLAINTIFF'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
TO 27 FEBRUARY 2007**

**Date: 13 February 2007**

**Time: 9:30 a.m.**

**Place: Courtroom 11, Floor 19**

**Judge: Hon. Martin J. Jenkins**

CLARENDON AMERICA INSURANCE  
COMPANY,  
  
Counterclaimants,  
  
v.  
  
MATT BUTLER dba SAN RAFAEL YACHT  
HARBOR and ROES 1 through 50, inclusive,  
  
Counterdefendants.

COME NOW PLAINTIFF MATT BUTLER dba SAN RAFAEL YACHT HARBOR (“plaintiff”) and defendant CLARENDON AMERICA INSURANCE COMPANY (“defendant”) and file this Stipulation Requesting and [Proposed] Order Granting Continuance of Hearing on Plaintiff’s Motion for Partial Summary Judgment to 27 February 2007:

1. On 27 December 2006, plaintiff’s counsel John H. Cigavic III, Esq. filed through the ECF/PACER system at the United States District Court for the Northern District of California that document entitled NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEROF requesting a hearing before this Court for 13 February 2007 (“Plaintiff’s Motion for Partial Summary Judgment”) for the above captioned matter. Attached hereto as Exhibit A is a true and correct copy of the “Notice of Electronic Filing or Other Case Activity” related to the transaction described in this paragraph 1.

2. On 22 January 2007, plaintiff’s counsel John H. Cigavic III, Esq. faxed and mailed to defendant’s counsel that document entitled JOINT STATEMENT OF UNDISPUTED FACTS ON PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT (“Joint Statement”) and a cover letter addressed to Colleen Van Egmond, Esq. (“cover letter”). Attached hereto as Exhibit B is a true and correct copy of the documents identified in this paragraph 2 including the Joint Statement, cover letter and a facsimile confirmation page relevant to these documents.

3. On 25 January 2007, plaintiff’s counsel John H. Cigavic III, Esq. filed through the ECF/PACER system at the United States District Court for the Northern District of California that document entitled NOTICE OF NON-RECEIPT OF OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT (“Notice of Non-receipt”) for the above-captioned matter. Attached hereto as Exhibit C is a true and correct copy of the “Notice of Electronic Filing or Other Case Activity” related to the transaction described in this paragraph 3.

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4. In the afternoon of 25 January 2007, defendant's counsel contacted plaintiff's counsel and stated that they had "never received" Plaintiff's Motion for Partial Summary Judgment and therefore could not be expected to timely respond to the motion because they had not received it.

5. During the morning of 26 January 2007, plaintiff's counsel and defendant's counsel spoke by telephone and agreed, *inter alia*, to request (by stipulation) that this Court continue the hearing date of Plaintiff's Motion for Partial Summary Judgment until 27 February 2007 and to request this Court Order:

(a) that the hearing date for Plaintiff's Motion for Partial Summary Judgment be continued from 13 February 2007 to 27 February 2007, or to such other time as is convenient for the Court, and

(b) that all applicable opposition and reply dates related to Plaintiff's Motion for Partial Summary Judgment be similarly continued with reference to a hearing date of 27 February 2007 to accommodate the due dates required by Local Rules 7-2, 7-3 and 56-1.

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6. Plaintiff and plaintiff's counsel, without expressing an opinion on defendant's counsel's claims identified in paragraph 4, *supra*, and in order to (1) promote the efficient use of judicial resources, (2) assure the Court has the benefit of legal briefing on Plaintiff's Motion for Partial Summary Judgment, (3) assure the Court has a full record for this lawsuit, and (4) as a courtesy to defendant's counsel, stipulates with defendant and defendant's counsel for the following relief and requests this Court Order:

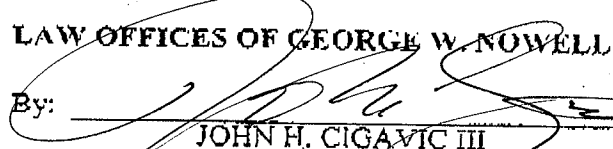
(a) that the hearing date for Plaintiff's Motion for Partial Summary Judgment be continued from 13 February 2007 to 27 February 2007, or to such other time as is convenient for the Court, and

(b) that all applicable opposition and reply dates related to Plaintiff's Motion for Partial Summary Judgment be similarly continued with reference to a hearing date of 27 February 2007 to accommodate the due dates required by Local Rules 7-2, 7-3 and 56-1.

IT IS SO STIPULATED.

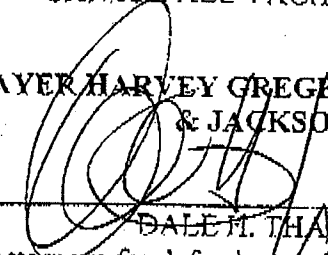
Dated: 26 January 2007

LAW OFFICES OF GEORGE W. NOWELL

By:   
JOHN H. CIGAVIC III  
Attorneys for Plaintiff and Counterdefendant  
MATT BUCLER dba  
SAN RAFAEL YACHT HARBOR

Dated: Jan. 26, 2007

THAYER HARVEY GREGERSON HEDBERG  
& JACKSON

By:   
DALE H. THAYER  
Attorneys for defendant and counterclaimant  
CLARENDON AMERICA INSURANCE  
COMPANY

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**PROPOSED ORDER GRANTING CONTINUANCE OF HEARING ON PLAINTIFF'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT TO 27 FEBRUARY 2007**

GOOD CAUSE APPEARING in the Stipulation Requesting and [Proposed] Order  
Granting Continuance of Hearing on Plaintiff's Motion for Partial Summary Judgment to 27  
February 2007:

IT IS THEREFOR ORDERED that

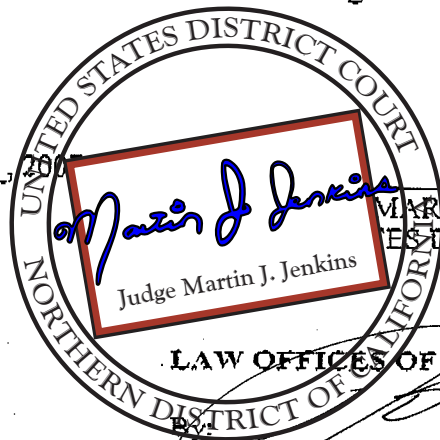
(1) the Stipulation Requesting and [Proposed] Order Granting Continuance of  
Hearing on Plaintiff's Motion for Partial Summary Judgment to 27 February 2007 is  
GRANTED; and

(2) the hearing date and applicable due dates related to Plaintiff's Motion for Partial  
Summary Judgment are continued in accord with a hearing date of 27 February 2007 and Local  
Rules 7-2, 7-3 and 56-1.

DATED: 02/01/07

Prepared by:

Dated: 26 January 2007



MARTIN J. JENKINS  
DISTRICT COURT JUDGE

LAW OFFICES OF GEORGE W. NOWELL

JOHN H. CIGAVIC III

Attorneys for plaintiff and counterdefendant  
MATT BUTLER cba  
SAN RAFAEL YACHT HARBOR

Prepared by:

Dated: Jan 26, 2007

THAYER HARVEY GREGGSON HEDBERG  
& JACKSON

By:

DALE H. THAYER  
Attorneys for defendant and counterclaimant  
CLARENDON AMERICA INSURANCE  
COMPANY